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TEICHERT AGGREGATES

Established 1887

July 26, 2007

California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

RE: Proposed In-Use Off-Road Diesel Vehicle Regulation Comments

Dear Members of the California Air Resources Board and Members of the Staff:

Teichert has been serving California since 1887 and is a major aggregate producer as well as a major construction contractor in Central and Northern California. Teichert has been an industry leader in improving air quality and received the Clean Air Award from the American Lung Association of Sacramento in summer 2004. Teichert strongly believes in CARB's goal to improve air quality in California to protect human health and quality of life, which is why we have one of the cleanest off-road fleets in California. We also believe in doing this in a cost effective and reasonable manner and therefore have serious concerns about CARB's regulation as proposed in May 2007.

Fleet Averages:

Teichert has been involved in the rule making process for this ATCM from the beginning. While we commend the CARB staff for their hard work on this rule and for listening to industry suggestions, we do not believe the implementation of some of these suggestions are what the industry had in mind. For example, when industry requested that a fleet average provision be added to this rule, our intentions were that we would be able to reduce our emissions based on our own individual fleets' baseline averages. This would insure that those fleets who took initiative to clean up their equipment early (since 2000) would get full credit for doing so and would have an advantage over the dirtier fleets. Instead, CARB added a fleet average provision based on an arbitrary fleet target (CARB has yet to explain these targets) and requires an 85% PM reduction from a 2009 baseline that does not correspond to a fleet's actual baseline, and which no fleet actually meets or exceeds (the first compliance date has been moved from 2009 to 2010, but the 2010 averages are the same as before and are based on a 2009 baseline).

For example, Teichert must reduce our PM emissions by 88.5% from our 2007 actual fleet average by 2020. At the start of 2007, our fleet had the following Tier distribution:

Tier 0 Engine	Tier 1 Engine	Tier 2 Engine	Tier 3 Engine	Tier 4 Engine
14.6%	41.7%	36.7%	6.5%	0%

Neither Tier 2 nor Tier 3 engines existed in 2000. Teichert took advantage of several exceptionally good years in the housing market to replace/repower much of our older Tier 0 equipment as well as to buy the cleanest equipment available to increase the size of our fleet. Those years were not typical years for Teichert or for the construction/mining industry as a whole, and such strong years are not common and cannot be counted on in our cyclical industry. Tier 2 and Tier 3 engines produce approximately 70% less PM than a late model Tier 0 engine; Teichert spent tens of millions of dollars to update our fleet to almost 45% Tier 2 and Tier 3, yet we get no PM credit for doing this.

The Diesel Risk Reduction Plan adopted by CARB in October 2000 had an 85% PM reduction target by 2020, presumably with a year 2000 baseline. Teichert has a much cleaner fleet now (2007) than it did in 2000, but we still have to reduce emissions by 88.5% from 2007-2020. CARB's 2009 baseline target does not accurately reflect an actual 2009 California fleet average, so actual PM reductions are much greater than 85% from 2000. Changing the baseline to year 2009 and adopting the rule several years later than anticipated while keeping the same 2020 target date creates a much more stringent rule than originally proposed.

When the Diesel Risk Reduction Plan was released, fleets that were aware of the upcoming regulation took two approaches: either clean up their fleets early or wait for the rule to be finalized before doing anything. Most companies who took the early compliance path are now questioning their decisions. *For a rule that emphasizes early reductions so strongly- why are we not recognized for our early reductions?*

VDECS

Vehicles retrofit with a Level 2 or 3 VDECS are exempted from turnover requirements for 6 years. This allows companies to wait until 2017 (large fleets), 2020 (medium fleets) and 2022 (small and public fleets) and later to turnover much of their Tier 0 equipment which has the highest NOx emissions. Most fleets will retrofit 20% of their Tier 0 equipment in the first compliance years as this gives the most PM emissions reductions, and the PM fleet average targets are very aggressive. There is currently no incentive to turning over high NOx Tier 0 equipment first, so *this rule will not contribute much to the 2015 NOx reduction goals set in the California SIP.*

There are only 3 VDECS verified by CARB. These VDECS have not been tested sufficiently enough on actual fleets to make most fleet owners comfortable with them and have many restrictions as far as which engine classes and years they can be installed on. Each fleet has to begin retrofitting 20% of its fleet a year- if a VDECS has an unexpected defect, 20% of a fleet's horsepower could potentially be affected in the first year of the regulation alone- most companies could not afford this type of setback.

Most fleet owners question what the availability of CARB verified VDECS will be when they must start ordering them less than 2 years from now. At present, only the Huss model does not require outside power to regenerate. Several companies who have had Huss VDECS installed on their equipment have been dissatisfied with the installation and have paid more than CARB's cost estimates- this does not encourage the industry to spend millions of dollars on Huss products until their installation improves.

Low availability of VDECS could cause some companies who make the first orders to make large financial investments in this technology, while companies who waited to order their VDECS may become exempted if VDEC manufacturers cannot keep up with demand and stop taking orders.

We recognize that VDECS are used widely in Switzerland and New York City today, and *request that CARB allow California fleets to use federally and internationally tested and accepted VDECS on their own fleets.* This would increase availability of VDECS for California fleet owners both in quantity and range of engine classes and would bring prices of VDECS down.

Teichert has been very proactive in updating its fleet in the last 10 years. By the end of 2007, we anticipate that less than 10% of our horsepower will be Tier 0 and just over 40% will be Tier 1. If Teichert is required to put VDECS on 20% of our fleet every year until we meet our fleet average target, we will have retrofitted every Tier 0 and Tier 1 piece of equipment that we can install a

VDECS on within the first 3 compliance years of the rule as proposed. In order to update our fleet after that, we would have to either 1) replace equipment we retrofit only 1 or 2 years prior or 2) make no changes and continue operating old equipment for 6 years until we are no longer exempted from replacing that equipment by the ATCM. *The rule as stated encourages us to keep Tier 0 and Tier 1 equipment in our fleet as long as possible instead of replacing these pieces with newer ones.*

Teichert would prefer to put VDECS on our Tier 2 and Tier 3 equipment first because this leaves the older equipment available for earlier turnover, and VDECS perform better and last longer before regeneration when installed on lower polluting equipment. The ATCM as currently proposed would penalize us for doing this as we will have to continue retrofitting 20% per year much longer than if we chose to retrofit the older equipment first. Furthermore, there are currently no VDECS certified by CARB to install on our Tier 3 equipment, even though filters do exist, and we have installed them on some of our current equipment on an experimental basis

Equipment Availability and Resale Value

Most of CARB's cost estimates involve almost exclusively repowering or buying used engines. CARB also exempts companies from having to buy new equipment, so if no repower or used piece is available, the company is required to do nothing. We believe this will be almost impossible to enforce because this rule covers such a wide variety of equipment and engine classes. Furthermore, we believe CARB greatly overestimates what the used market for Tier 2 and higher equipment will be during the life of this regulation. The reality is that most companies will buy new equipment or use CARB's exemption that allows companies to do nothing if a repower or used piece of equipment is not available. *If many companies take this exemption from buying new- CARB will not meet its emission goals.*

Health Effects

Teichert does not dispute the long term health effects of Diesel PM exposure. We are also aware of the *immediate* health effects of exposure to high ozone levels caused by NOx. Furthermore, a greater percentage of California exceeds federal ozone levels than PM levels. We do not understand CARB's push to clean up PM immediately while downplaying the health effects of NOx. We believe that replacing Tier 0 engines with newer engines will greatly reduce both NOx and PM and is a better strategy than encouraging the use of older engines with PM retrofits. One day of high ozone levels can cause temporary respiratory issues in even the healthiest of adults. The studies used by CARB for their analysis of health effects due to PM are based on *chronic* exposure over 70 years. Once again, we do not dispute these health effects, but believe energy would be better focused on reducing both PM and NOx in the early years, and that we should get Tier 0 equipment out of our fleets rather than add PM retrofits to them and keeping them longer.

Enforcement

Teichert has serious concerns about CARB's ability to enforce this rule. No enforcement items have been written into the ATCM. What are the penalties for noncompliance? CARB has not shared with industry how they will fund this program or how many people will be hired to enforce this rule- will we be expected to pay fees in later years? *While CARB believes that industry can "just pass its costs onto customers", this only works if the rule is almost 100% enforced.*

We do not envision that CARB will actually check individual equipment pieces each year to determine if those pieces truly comply with the rule since CARB estimates there are 180,000 pieces affected by

this rule (this means that approximately 700 pieces of equipment would have to be inspected daily each year- we believe many pieces will never be inspected during the entire lifetime of the rule). Even if CARB staff never inspected a single piece of equipment, they would have to review at least a couple hundred fleet average reports every day for the lifetime of the rule- these reports will be very complicated and there will be a lot of room for error if not reviewed carefully and double-checked; will CARB be employing over 100 staff member just to review fleets?

While it is true that the industries affected by this rule have to pass on costs to their customers when expenses increase due to increased costs relating to fuel, materials, utilities, etc.- this type of cost truly is felt by every company because there is no way around these costs (with few exceptions). The complexity of this rule leaves many opportunities for companies to make legitimate mistakes, to purposefully submit false data, or to not comply at all. *Industry has been given no assurance that CARB will have a support staff large enough to be able to catch these types of errors, and therefore has every reason to believe that competitive discrepancies will be created.*

CARB Calculator

While CARB's fleet average calculator spreadsheet has helped Teichert to determine what our current fleet average and distribution is and tells us what CARB's fleet average targets are for our company, the value of the calculator stops there. Furthermore, the calculator states that it is "not for compliance purposes"- yet this is the only way for most companies to determine their compliance. The spreadsheet is full of equations that do not calculate correctly, and it does not help a company with more than a few pieces of equipment determine different compliance paths it could take. *Teichert is a large company with a staff devoted to environmental compliance and we do not know how to best meet CARB's fleet averages.* CARB needs to provide some type of modeling tool to help companies determine how different compliance paths would affect both their costs and air quality.

Costs

The costs associated with this rule are huge: $3-$3.4 billion. While CARB's estimates for how much this rule will save the economy by reductions in hospital visits, lost work days, and early deaths are even larger, CARB is asking one sector of the economy to front all of these costs. CARB does not have a good handle on how much this rule will cost as there are too many variables associated with such a complicated rule. CARB should help to create a Carl Moyer type program to help fleets comply with this rule.

Complexity

CARB's currently proposed rule is entirely too complicated, and most fleets simply do not understand how to comply. We believe that CARB has had to continuously add exemptions and clarifications to the rule because the rule tries too hard to control every aspect of the decision making processes of individual fleets. CARB could have created a much simpler rule from the beginning- for example: each fleet must calculate and submit its 2000 fleet average, then reduce its PM fleet average by 50-60% by 2015 and 85% by 2020 (a percentage would also be used for NOx). This would allow fleets to make their own decisions on how to reduce their emissions each year as long as they meet or exceed their 5-year reduction targets and would eliminate the need for most of the annual exemptions. This also would not force companies to make drastic changes to their fleets in years in which the economy is down. *We believe that CARB could get the same emissions reductions, receive much less industry opposition, and allow companies to make their own decisions with a simpler rule.*

Conclusion

Teichert would like to see this rule finalized as much as CARB and environmental groups do, as we would all like to know what the future holds for this rule and California's emissions. This does not mean, however, that this rule should be passed prematurely; we need a rule that works, and this may require some drastic changes to the current proposal as written. Teichert supports the goals of this rule and is willing to take on the extra costs involved in order to reduce our 2000 emissions by 85% by 2020. No one wants to work hard on a rule to see it ultimately fail- by shutting down businesses and/or not getting the emissions reductions it intended. Many companies, especially the ones in the small and medium groups, are legitimately concerned that they will lose their businesses, while the larger companies will face burdensome costs without any assurance that the rule will be well enforced. Teichert asks that the Board please consider these comments carefully and weigh the negative impacts this currently proposed rule will cause with the positive impacts.

Sincerely,

Brittany Mitchell for
A. Teichert and Son, Inc.